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U.S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA

2007 JAN 31 AM 11:45

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA

BY \_\_\_\_\_

IN RE MANDATORY CONFLICT  
SCREENING FOR FINANCIAL  
CONFLICTS OF INTEREST FOR  
JUDGES

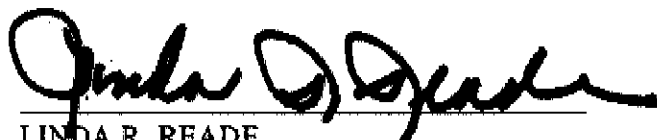
No. 07-AO-0002-P

ADMINISTRATIVE ORDER

On January 18, 2007, the Judicial Council of the Eighth Circuit approved the attached mandatory conflict screening model plan which will become effective February 1, 2007. The plan is mandatory and shall be fully implemented by this court and all judges who are assigned cases in this district.

**IT IS SO ORDERED.**

**DATED** this 31<sup>st</sup> day of January, 2007.

  
LINDA R. READE  
CHIEF JUDGE, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA

07-AO-0002-P

**United States Courts**  
*Judicial Council of the Eighth Circuit*  
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January 30, 2007

**MEMORANDUM**

TO: Judicial Council Members  
FROM: Millie Adams *M. A.*  
RE: Mandatory Conflict Screening Plan

Attached is the Eighth Circuit Mandatory Conflict Screening Plan adopted by the Judicial Council on January 18, 2007 that reflects the changes suggested by Judge Wilson and other minor adjustments by Chief Judge Loken. Chief Judge Loken has authorized me to submit this Plan to the U.S. Judicial Conference in order to meet the January 31, 2007 deadline. If additional revisions are desired, Council Members can request it as an agenda item at a later date.

The Plan will become effective February 1, 2007 and will be posted on our website for all courts in the Eighth Circuit.

If you have any questions please feel free to contact me or my assistant Frenchette Prince. Thank you.

MBA  
Enc.



JAMES C. DUFF  
Director

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

WILLIAM R. BURCHILL, JR.  
Associate Director  
and General Counsel

JILL C. SAYENGA  
Deputy Director

WASHINGTON, D.C. 20544

ROBERT K. LOESCHE  
Deputy General Counsel


January 11, 2007

MEMORANDUM TO ALL: Circuit Executives  
Clerk, Court of Appeals for the Federal Circuit  
Clerk, Court of International Trade  
Clerk, Court of Federal Claims

SUBJECT: Report on Mandatory Conflict Screening Implementation (INFORMATION)

As you know, the recently adopted Judicial Conference policy on mandatory conflict screening requires circuit councils (and courts not subject to circuit council authority) to report by January 31, 2007, with a preliminary plan for implementation of conflict screening in the circuit (or court). The Judicial Conference Executive Committee has asked the Committee on Codes of Conduct to review these reports and determine whether any further actions should be taken. Consequently, this is to request that the plans be submitted to the Administrative Office's Office of the General Counsel, which staffs the Committee on Codes of Conduct, and not to the Office of Judicial Conference Executive Secretariat. Please note as well that the January 31, 2007, submission date relates to *preliminary* plans. The policy does not require circuit councils (and courts) to have final plans in place by that date.

Please call me or Bob Deyling at 202-502-1100 if you have any questions.

  
Marilyn J. Holmes

cc: Honorable Gordon J. Quist  
Laura Minor  
Peggy Irving

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

### MANDATORY CONFLICTS SCREENING PLAN

**Preface:** The Judicial Conference of the United States has adopted a mandatory conflict screening policy requiring courts and judges to implement automated screening. The Judicial Conference policy is to be administered and directed by the circuit councils.

**Authority:** The Judicial Council of the Eighth Circuit adopts this Plan under the authority set forth in 28 U.S.C. § 332(d)(1) and in accordance with the mandatory financial conflict screening policy adopted on September 19, 2006, by the Judicial Conference.

**§ 1. Scope.** This Plan applies to the court of appeals, district courts, bankruptcy courts, and bankruptcy appellate panel within the Eighth Circuit, and to each judge of those courts in regular active service, retired under 28 U.S.C. §§ 371(b) or 372(a) and performing duties pursuant to a designation under 28 U.S.C. §§ 291 to 294, or recalled to judicial service. This Plan does not apply to judges retired under 28 U.S.C. §§ 371(b) or 372(a) but not performing duties, or to retired judges eligible for recall but not serving on recall.

**§ 2. Definitions.** For purposes of this Plan:

(a) "Conflict of interest" means an interest that disqualifies a judge as provided in Canon 3C(1) of the Code of Conduct for United States Judges. "Financial conflict" or "financial conflict of interest" means a financial interest that disqualifies a judge as provided in Canon 3C(1)(c) of the Code of Conduct for United States Judges. "Financial interest" has the meaning set forth in Canon 3C(3)(c) of the Code of Conduct for United States Judges. See also 28 U.S.C. § 455.

(b) "Judge" refers to all judicial officers subject to the Code of Conduct for United States Judges.

**§ 3. Court Obligations.** Each court in the Eighth Circuit must implement automated screening to identify possible financial conflicts of interest for each judge appointed, designated and assigned, transferred, temporarily assigned, or recalled to serve the court. Courts may use either the screening component of the Case Management/Electronic Case Files (CM/ECF) system or other automated screening approved by the Judicial Council under § 6 of this Plan. In implementing the screening, the clerk's office must:

(a) ensure that the following information is entered into the database used for automated screening: the parties, attorneys, law firms, and corporate parents disclosed by the parties;

(b) at the request of a judge, enter the judge's conflicts list into the database used for automated screening;

(c) take reasonable steps to ensure that attorneys (or parties who are not represented by counsel) provide information needed for conflict screening, including corporate parent statements as required by Fed. R. App. P. 26.1, Fed. R. Bankr. P. 1007(a)(1) and 7007.1, Fed. R. Civ. P. 7.1, and Fed. R. Crim. P. 12.4;

- (d) screen cases for conflicts on a regular schedule using automated screening, including new matters when they are assigned (or to be assigned) to a judge or panel, and all pending matters periodically or after each new entry of relevant information;
- (e) notify the judge (or designee) when a possible conflict is identified and reassign the case if an investigation reveals a conflict that cannot otherwise be avoided;
- (f) remind judges on a regular basis to review and update their conflicts lists and to update the designee who will receive notice of a possible conflict, and notify newly-appointed judges and visiting judges of their obligations under this Plan; and
- (g) provide information, training, and assistance to judges and staff to facilitate their participation in automated screening.

**§ 4. Obligations of Judges.** Each judge has the ultimate responsibility for identifying and avoiding conflicts of interest and should ensure that assigned matters are reviewed for conflicts before action is taken in the matter. Judges are encouraged to use the screening system implemented by the court to which the judge is appointed to identify financial and other conflicts of interest. Judges should:

- (a) be continually aware of their personal and fiduciary financial interests, and make a reasonable effort to know about the financial interests of a spouse and minor children residing in the household, as required by Canon 3C(2) of the Code of Conduct for United States Judges; see also 28 U.S.C. § 455(c);
- (b) develop a "conflicts list" identifying financial conflicts using the form developed by the clerk of court for automated screening, if any;
- (c) update the conflicts list as financial interests change; and
- (d) determine promptly whether a conflict exists when notice is provided of a possible conflict and arrange for appropriate action to resolve the conflict (i.e., nonassignment, recusal, divestiture of the interest).

**§ 5. Exceptions.**

- (a) Upon written application, the Judicial Council may except a court from § 3 of this Plan, and should except the judges of that court from § 4 of this Plan, where automated screening through CM/ECF or any other automated screening system is not available.
- (b) Upon written application, the Judicial Council may except a judge from § 4 of this Plan where the circumstances indicate that the judge's participation is unnecessary or otherwise is not feasible, including in the following circumstances:
  - (1) the judge has no case currently assigned and is not receiving new assignments (e.g., due to serious illness); and

(2) the judge files a written certification stating that he or she knows of no financial interest attributable to the judge requiring disqualification as a financial conflict of interest and does not expect to acquire such an interest in the foreseeable future.

(c) In granting an exception, the Judicial Council must specify its duration; an exception under § 5(b)(2) shall not exceed one year but may be renewed for good cause.

**§ 6. Adoption of Alternative Screening.** A court may notify the Judicial Council in writing that it has adopted an alternative automated screening system other than CM/ECF but should acknowledge that the alternative system may not receive automation support from the Administrative Office. The request shall contain a detailed description of the system. Any alternative system must have the ability to:

- (a) create and store electronically a judge's conflicts list;
- (b) compare entries on a judge's conflicts list to parties, attorneys, law firms, and corporate parents in the court's docket;
- (c) allow for screening on a regularly scheduled basis and on an ad hoc basis; and
- (d) provide notice to a judge (or designee) when a possible conflict is identified.

**§ 7. Reporting Obligations.**

- (a) Each chief judge must make such reports as are requested by the Judicial Council.
- (b) The Circuit Executive is directed to submit this Mandatory Conflicts Screening Plan to the Judicial Conference by January 31, 2007. The Judicial Council will submit such additional reports as are requested by the Judicial Conference.

**§ 8. Confidentiality of Conflicts Lists.** Nothing in this Plan shall be construed as requiring a court or judge to disclose the interests listed on a conflicts list to anyone except to the limited extent necessary in the court's implementation of its automated screening.

**§ 9. Enforcement.** Courts and judges subject to this Plan must comply with its requirements. A judge who violates this Plan may be subject to discipline.

**§ 10. Effective Date.** This Plan takes effect on February 1, 2007.

Adopted by the Judicial Council of the Eighth Circuit on January 18, 2007.